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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)**

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In re ADRIAN O., a Person Coming Under  
the Juvenile Court Law.

C084538

THE PEOPLE,

(Super. Ct. No. JV138236)

Plaintiff and Respondent,

v.

ADRIAN O.,

Defendant and Appellant.

In March 2017, Adrian O., a minor, admitted five counts of unlawfully concealing a camera and recording by electronic means another person who may be in a state of full or partial undress. (Former Pen. Code, § 647, subd. (j)(3)(A).) The juvenile court found the wardship petition true and placed the minor on probation. (Welf. & Inst. Code, § 725, subd. (a).)

On appeal, the minor contends the juvenile court improperly denied his motion to suppress. (Welf. & Inst. Code, § 700.1.) According to the minor, his cell phone was unlawfully seized and searched on school grounds. We will affirm the juvenile court's denial of his motion to suppress.

### **FACTUAL AND PROCEDURAL BACKGROUND**

We draw our description of the facts from the factual basis for the minor's admissions and the evidence at the November through December 2016 motion to suppress hearing.

In May 2016, the 16-year-old minor hid a cell phone in the girls' locker room in his high school. He set it to record while the girls undressed, retrieved it, and showed the video to a friend. Although the minor was only charged with respect to five victims, there were other girls visible in the video.

During the motion to suppress hearing, Vice Principal M.W. testified that, in May 2016, he was told by female students that the minor had recorded girls undressing in the locker room and was distributing the videos via social media and text message. The students also signed written statements to that effect. With the written and signed statements, Vice Principal M.W. decided to approach the minor to question him, because the information was more reliable than "rumors."

At 3:00 p.m. on May 6, 2016, Vice Principal M.W. encountered the minor on campus and told him to come to the office to talk about "statements" and "rumors" about things on his phone. The minor initially refused but eventually complied.

Vice Principal C.C. joined Vice Principal M.W. in the office to talk with the minor. They asked for the minor's phone, but he refused to give it to them. The group was eventually joined by the minor's mother and later his father. School Resource

Officer Joel Soliz also joined the group. Soliz testified that the minor had already given his phone to Vice Principal M.W. prior to Soliz's arrival, with his mother's "permission."

Vice Principal M.W. testified that he and Vice Principal C.C. were doing most of the questioning, since at that point it was unclear whether this was a criminal or a school matter. At one point, the two vice principals told the minor they had "proof and witnesses as to what you have been doing with this phone."

Officer Soliz testified that he stepped out of the office, and when he returned, Vice Principal M.W. told Soliz that the minor had said that he had surreptitiously recorded girls in the locker room multiple times. Vice Principal M.W. testified that he and Vice Principal C.C. were asking the questions when the minor confessed, not Soliz.

Officer Soliz testified that he informed the minor of his *Miranda* rights,<sup>1</sup> and the minor signed a *Miranda* form. The minor then told Soliz that he had hidden his cell phone in a locker in the girls' locker room, recorded students undressing, and later retrieved the phone. Vice Principal M.W. testified that the minor identified the individual locker he used to hide the phone. The minor's mother gave Soliz permission to seize the phone and look at any possible content. At mother's request, the minor gave Soliz his phone passcode.

Officer Soliz testified that he watched enough of the video on the phone to see the minor's face and the locker room. Soliz did not search the minor's person, nor did he handcuff him or place him under arrest. Soliz was aware that he would be investigating an incident and was wearing his uniform. He also carried an unconcealed gun.

Mother testified that, during the interview, she did not feel free to leave. The door was shut behind her, and the vice principals said the minor "had problems." The vice

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<sup>1</sup> *Miranda v. Arizona* (1966) 384 U.S. 436 [16 L.Ed.2d 694].

principals proceeded to question the minor for two hours until Officer Soliz arrived. When Soliz arrived, he immediately began questioning the minor and repeatedly threatened to arrest him. Soliz and the vice principals promised to “go easy” on the minor if he confessed. Mother felt scared and “teary-eyed.” Soliz and the vice principals together questioned the minor for over an hour. They asked mother more than 10 times to obtain the minor’s phone, and she felt like she “had to do as [she was] told.” Soliz was present when the minor gave up his phone. Mother gave the vice principals and Soliz permission to look at the phone.

The trial court denied the minor’s motion to suppress. The trial court found that the minor gave up his phone due to “pressure placed upon him by the vice principals and his parents,” meaning no *Miranda* advisement was required. Officer Soliz did not participate in the “interrogation” of the minor “in any meaningful way,” with the investigation only turning criminal after the password was disclosed and the phone was examined.

## **DISCUSSION**

The minor contends the trial court erred in denying his motion to suppress because his cell phone was unlawfully seized and searched on school grounds. According to the minor, the vice principals unreasonably pressured him to turn over his phone, including by bringing in an armed and uniformed officer. Citing *In re William G.* (1985) 40 Cal.3d 550 at page 564, the minor also argues the search was unlawful because it was “predicated on mere curiosity, rumor, or hunch.”

Students are protected against unreasonable searches and seizures on public school campuses under the Fourth Amendment. (*In re Sean A.* (2010) 191 Cal.App.4th 182, 186.) “However, strict application of the principles of the Fourth Amendment as used in criminal law enforcement matters does not appropriately fit the circumstances of the operation of the public schools.” (*Ibid.*) “In practice, a public school student’s legitimate

expectation of privacy is balanced against the school's obligation to maintain discipline and to provide a safe environment for all students and staff.” (*In re K.J.* (2018) 18 Cal.App.5th 1123, 1129.)

As such, “a school official may detain a student for questioning on campus, without reasonable suspicion, so long as the detention is not arbitrary, capricious, or for the purpose of harassment. [Citation.] A school official may search a student's person and personal effects based on ‘a reasonable suspicion that the search will disclose evidence that the student is violating or has violated the law or a school rule.’ ” (*In re K.J., supra*, 18 Cal.App.5th at p. 1129.) “ ‘[S]chool officials’ ” for purposes of Fourth Amendment analysis include police officers such as Officer Soliz who are assigned to high schools as resource officers. (*Ibid.*)

“In reviewing a trial court's ruling on a motion to suppress evidence, we defer to that court's factual findings, express or implied, if they are supported by substantial evidence. [Citation.] We exercise our independent judgment in determining whether, on the facts presented, the search or seizure was reasonable under the Fourth Amendment.” (*People v. Lenart* (2004) 32 Cal.4th 1107, 1119; see *In re Sean A., supra*, 191 Cal.App.4th at p. 186.)

Although Vice Principal M.W. may have casually described as “rumors” the information he obtained from the other students that the minor had recorded videos of female students undressing in the girls' locker room, he also clarified during his testimony that he decided to question the minor based on the students' signed written statements. Such statements, which are more reliable than rumors, justified the search of the minor's cell phone.

Moreover, the vice principals and Officer Soliz acted reasonably in searching the phone based on mother's consent. Although mother testified that she was scared and felt like she had to comply with the repeated requests to hand over the minor's phone and

passcode, Soliz testified that, by the time he arrived, the minor had already given the phone to Vice Principal M.W., with mother's permission. Mother gave the vice principals permission to look at the phone. Soliz testified that he did not look at the phone's contents until after the minor had confessed and he had gotten permission to do so from mother. It was reasonable for the vice principals and Soliz to believe that mother had authority to consent to the search of the phone, especially since she convinced the minor to divulge his passcode. On this record, the trial court did not err in denying the minor's motion to suppress.

### **DISPOSITION**

The judgment (order denying suppression motion) is affirmed.

\_\_\_\_\_**BUTZ**\_\_\_\_\_, J.

We concur:

\_\_\_\_\_**HULL**\_\_\_\_\_, Acting P. J.

\_\_\_\_\_**DUARTE**\_\_\_\_\_, J.